

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	8:04CR118
)	
Plaintiff,)	
)	
vs.)	MEMORANDUM
)	AND ORDER
HUMBERTO RIVERA-MORENO,)	
)	
Defendant.)	

Defendant has filed a motion for extension of time (filing 206) in which to file a motion under 28 U.S.C. § 2255. The motion will be denied without prejudice because this court does not have jurisdiction to consider the timeliness of a § 2255 motion until it is actually filed. See Green v. United States, 260 F.3d 78, 82-83 (2d Cir. 2001) (a district court may grant an extension of time to file a motion pursuant to § 2255 only if (1) the moving party requests the extension upon or after filing an actual § 2255 motion, and (2) “rare and exceptional” circumstances warrant equitably tolling the limitations period).

IT IS ORDERED that Defendant’s motion for extension of time (filing 206) is denied without prejudice.

January 22, 2007.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge